

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





ORIGINAL

74-2603

B  
Page 5

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In The  
**United States Court of Appeals**  
For The Second Circuit

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UNITED STATES OF AMERICA,

*Appellee,*

- against -

MICHAEL CAMPOREALE,

*Defendant-Appellant.*

---

**APPENDIX**

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IRVING ANOLIK  
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CRIMINAL DOCKET  
UNITED STATES DISTRICT COURT

DOCKET ENTRIES

1a

JUDGE LASKER

73 JAN. 5 6

C. Form No. 100 Rev.

TITLE OF CASE  
THE UNITED STATES

vs.

ANTHONY POLITI, et al.

for all defendants -- see page 2

12-2-74 ATTORNEYS  
For U. S.:

Special Atty. Joel M. Frieman  
264-1123

For Defendant:

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
2 mailed	Clerk	1/2/74	100-100000	-	-
3 mailed	Marshal	1/2/74	100-100000	-	-
olation	Docket fee	1/2/74	100-100000	-	-
le 13		1/2/74	100-100000	-	-
1955 and 2 conducting		1/2/74	100-100000	-	-
legal gambling business (ct.2)		1/2/74	100-100000	-	-
1 conspiracy so to do (ct.1)		1/2/74	100-100000	-	-
23 Perjury (ct.3)		1/2/74	100-100000	-	-
THREE COUNTS					

DATE PROCEEDINGS

1/2-74 Filed Indictment

ONLY COPY AVAILABLE

- over -

## Docket Entries

2a

DATE

PROCEEDINGS

UNITED STATES OF AMERICA

VS.

1) ANTHONY POLITI,

ct. 1, 2

2) GERALD POLITI,

ct. 1, 2

3) PHILIP POLITI,

ct. 1, 2

4) MICHAEL ROMAN,

ct. 1, 2

5) ROBERT PETERS

ct. 1, 2

6) MICHAEL CAMPOREALE

ct. 3

7) ALPHONSE CUZZO,

ct. 1, 2

8) ARTHUR FRANGELLO,

ct. 1, 2

9) LEONARD HARRISON,

ct. 1, 2

10) LAWRENCE JOHNSON,

ct. 1, 2

11) LOUIS VISCONTI,

ct. 1, 2

12) EDDIE WASHINGTON,

ct. 1, 2

13) HARRY WEIS

ct. 1, 2

-19-73 Filed Govt's notice of readiness for trial.

1-29-73 Anthony Polito, Michael Roman and Alphonse Cuzzo- Filed notice of appearance by Vincent W. Lanna, Esq., 50 Riverdale Ave., Yonkers, NY 10701 (914-968-2020)

1-29-73 Anthony Polito, M. Roman and A. Cuzzo- (Atty. present) plead not guilty. Remaining defendants Court directs entry of not guilty plea. Case assigned to Judge Lasker. -- Knapp, J.

-9-73 Robert Peters-Filed notice of appearance by atty Edward S. Panzer 299 B'way Nyc 10007 349-6128

9-73 Peters- Filed application to extend bail limits.

-22-732 Politi- Filed Notice of motion for bill of particulars, discovery and inspection and to dismiss.

-22-73 Politi- Filed deft's memo. of law in support of motions.

23-73. Gerald Politi, Phillip Politi and Harry Weis- Filed affidavit and notice of motion for bill of particulars and suppression.

P. Politi- motion will be made in behalf of deft. for severance of trial in view of his precarious state of health.

DATE	PROCEEDINGS
5-73	Camporeale-Filed affidavit and notice of motion for severance and for a Bill of Particulars.
3-6-73	Alphonse Cuzzo- Filed statement and notice of motion for suppression.
3-7-73	Michael Roman- Filed affidavit and notice of motions for discovery and inspection, brady material, Bill of Particulars, Statement of defendant, search and seizure, Government informer, Sec. 1955 of T.18 is unconstitutional, inspection of Grand Jury minutes, misjoinder of offenses, severance etc.
7-73	Frangello and Visconti-Filed affidavit and notice of motions for a Bill of Particulars, to sever, to dismiss, inspect and copy and for suppression.
3-9-73	Politi-Filed statement and motions to suppress and for hearings.
-16-73	CONFERENCE held. Trial date postponed until 6-4-73 in room 619...Suppression hearing to be held 4-2-73 in room 501...Lasker, J.,
3-22-73	MICHAEL ROMAN - Filed affdvt. & supplementary notice of motion to suppress evidence.
3-27-73	Philip Politi-Filed order that deft is to submit himself to the U.S. Public Health Service doctors for examination and the U.S. ATTY shall pay a <del>xk</del> reasonable amount for the services. Lasker, J.
-2-73	Suppression hearing held.
-3-73	Suppression hearing continued.
4-20-73	Roman- Filed memorandum of law.
4-25-73	FRANGELLO- Filed notice of motion and supporting memorandum to dismiss indictment and notice of motion and supporting memorandum for an order to suppress (all under one back)
-30-73	Filed Govt's memorandum of law.
-30-73	Cuzzo-Filed stipulation between the Atty's that premises 152 Eastview Ave, Yonkers are owned by Donna Cuzzo and were conveyed to her father in 1965 (see stip)



DATE	PROCEEDINGS
4-30-73	Politi-Filed affidavit in opposition by the Govt.
5-11-73	Philip Politi-Filed order that the deft report to Dr. Charles A. Bernard, 170 Maple Ave. Whiteplains N.Y. to submit for examination for mental competency and ordered that the U.S of America pay a reasonable amount for said examination. Lasker, J.
5-30-73	Filed Governments bill of Particulars.
6-1-73	Filed Govt's Bill of Particulars.
-1-73	Filed Govt's proposed examination of prospective jurors.
6-4-73	Case called - attys present defts present - adjd to June 11, 1973 at 10:15 a.m. Lasker, J.
5-31-73	Frangello-Filed affidavit for writ of H/C ad pros. ret. 6/4/73. Politi -Filed affidavit for writ of H/C ad Pros. ret. 6/4/73.
5-30-73	Roman-Filed affidavit of writ of H/C ad Pros. ret. 6-1-73. Cuzzo-Filed affidavit for writ H/C ad Pros. ret. 6-1-73.
6-11-73	FILED WAIVERS (12) OF TRIAL BY JURY (all except CAMPOREALE) approved Lasker, J.
6-11-73	Filed memorandum defendants Anthony Politi, Michael Politi, Michael Roman, Robert Peters, Alphonse Cuzzo and Arthur Frangello have variously moved to suppress evidence and to attack the validity of the indictment. When applicable, each defendant (including those not named above) has adopted motions made by others. This memorandum disposes of such motions. Motion for Bill of Particulars and Discovery have previously been determined. ***** We have considered all the other motions of the deft and find them unmeritorious. The motions of defendants are denied. So Ordered. Lasker, J. (see memo. on file) (m/n)
-11-73	<del>Non-Jury</del> trial begun before Lasker, J.
-12-73	Trial continued and concluded. Decision Reserved. Lasker, J.

## Docket Entries

5a

DATE	PROCEEDINGS
11-73	JOEL M. FRIEDMAN-Filed affdvt for a writ of habeas corpus directed to Warden, Orange County Jail, Goshen, N.Y.-Ret. 6-11-73
11-73	JOEL M. FRIEDMAN-Filed affdvt for a writ of habeas corpus directed to Warden, Westchester County Pen., Valhalla, N.Y.-Ret. 6-11-73.
3-73	ARTHUR FRANGELLO - Filed W/H/C Ad Pros. <u>affied. LASKER, J. 6-12-73.</u>
3-73	PHILIP POLITI- Filed W/H/C ad Pros. Writ sat. <u>affied. LASKER, J. 6-4-73.</u>
3/73	PHILIP POLITI - Filed W/H/C Ad Pros. Writ satisfied. LASKER, J. 6-12-73.
3-73	MICHAEL ROMAN - Filed W/H/C Ad Pros. Writ satisfied. LASKER, J. 6-12-73
3-73	ARTHUR FRANGELLO - Filed W/H/C Ad Pros. Writ satisfied. LASKER, J. 6-4-73.
3-73	ALPHONSE CUZZO - Filed W/H/C Ad Pros. Writ satisfied. 6-12-73. LASKER, J.
11-73	ALL DEFTS. Except MICHAEL CAMPOREALE (attys Present) are found guilty on Counts 1 & 2. Sentence date 11-20-73. All defts. continued on present bail. LASKER, J.
11-15-73	Filed affdvt. of J. Lawrence Silverman.
11-16-73	Filed affdvt. of Edward M. Shaw. See 71 Cr. 398. I.B.C.
11-24-73	Filed Opinion #39952 dated Oct. 23, 1973. Court finds the Government has proven its case against all defendant's beyond a reasonable doubt on each count and the defendants are found to be guilty as charged on each count. LASKER, J.
11-24-73	Filed copy of Opinion #39952.
11-29-73	PHILIP POLITI - Filed affdvt. for W/H/C ad Pros. Writ issued, Ret. 11-30-73.
11-29-73	MICHAEL ROMAN - Filed affdvt. for W/H/C Ad Pros. Writ issued, Ret. 11-30-73.
11-29-73	HARRY WEIS - Filed affdvt. for W/H/C Ad Pros. Writ issued, Ret. 11-30-73.
11-11-74	PHILIP POLITI - Bail set at \$10,000. P.R.B. secured by \$2,000. cash. LASKER, J. # 102
11-11-74	MICHAEL ROMAN - Deft. (Atty. Present) Filed Judgment/and issued copies. It Is Adjudged that the deft. is hereby committed to the custody of the Atty. Gen. or his authorized representative for imprisonment for a period of ONE (1) YEAR commencing this date, the sentence to run concurrently with the sentence presently being served in Federal Custody and to pay a fine in the sum of \$2,000. within 90 days hereof or the deft. to stand committed therof in lieu of payment. Ct.3 Is dismissed. LASKER, J.
11-74	ROMAN- Filed Notice of Appeal from from judgment entered on Feb. 11-74. m/n.
2-74	POLITI - Filed W/H/C ad test, Writ satisfied 2-11-74.

OVER



DATE	PROCEEDINGS
22-74	WEIS - Filed W/H/C ad Test. writ satisfied 2-11-74.
22-74	ROMAN - Filed W/H/C Ad Test. Writ satisfied 2-11-74. LASKER, J.
-14-74	Filed notice that record has been transmitted to the U.S.C.A.
15-74	MICHAEL ROMAN - Fine marked satisfied and entered in money judgment book.
17-74	POLITI = Filed the following, received from U.S. Mag. Docket Sheet and Appearance bond; (2) one in the amt. of \$10,000. secured by \$2,000, Public Service Mutual and \$2,00. (bond after Indictment 73-56)
5-31-74	ROMAN - Filed- Deft. committed F.D.H. on Writ following delivery from U.S.P. Lewisburg, Pa to Warden, Fed. Det. Hdqrs. N.Y. - 2/11/74
6-11-74	ANTHONY POLITI= Filed Judgment and Commitment (#74525) It Is Adjudged that the deft. is hereby committed to the custody of the Atty General for a period of ONE (1) YEAR on Count 1 and that as to Count 2, the imposition of sentence of imprisonment is suspended and Deft. is placed on Probation for a period of THREE (3) YEARS to commence on the expiration of the term of custody under Count 1. the Deft is fined the sum of \$3,750. on Count 1 and \$3,750. on Count 2, both fines to be paid within NINETY (90) DAYS hereof or the Deft to stand committed in lieu of payment. ---LASKER, J.
-11-74	GERALD POLITI= Filed Judgment and Commitment= It Is Adjudged that the Deft. is hereby committed to the custody of the Atty General for imprisonment for a period of THREE (3) YEARS on Counts 1 and 2 concurrently and not consecutively, and on condition that the Deft be confined to a jail or treatment type institution for a period of FOUR (4) MONTHS, the execution of the remainder of the sentence is suspended and the Deft. is placed on probation for a period of THIRTY-TWO (32) MONTHS to commence upon the conclusion of the term of imprisonment. --- LASKER, J.
-11-74	PHILIP POLITI= Filed Judgment & Commitment= It Is Adjudged that the Deft is hereby committed to the custody of the Atty General for imprisonment for a period of TWO AND ONE-HALF (2½) YEARS on each of counts 1 and 2 and condition that the Deft be confined in a jail or treatment institution for a period of SIXTY (60) DAYS, the execution of the remainder of the sentence of imprisonment is suspended and the Deft placed on probation for a period of TWENTY-EIGHT (28) MONTHS, subject to the standing probation order of the Court, these sentences to run concurrently and not consecutively. --- LASKER, J.
-11-74	ROBERT C. PETERS= Filed Judgment and Commitment (#74524) It Is Adjudged that the Deft. is hereby committed to the custody of the Atty. General for imprisonment for a period of THREE (3) YEARS on each of counts 1 and 2, on condition that the Deft. be confined in a jail or treatment type institution for a period of SIX (6) MONTHS, the execution of the remainder of the sentence of imprisonment is suspended and the Deft. placed on Probation for a period of THIRTY (30) MONTHS, subject to the standing probation order of the court, these sentences to run concurrently and not consecutively and the Deft. is fined the sum of \$1,250. on each count to be paid within NINETY (90) DAYS hereof, or the Deft. to stand committed in lieu of payment.-LASKER, J.

(Cont'd on Page #7)

## Docket Entries

7a

DATE	PROCEEDINGS
11-74	<p>MIRFONSE A. OLIZZO- Filed Judgment and Commitment- It Is Adjudged that the Deft. is hereby committed to the custody of the Atty. General for a period of THREE (3) YEARS on Counts 1 and 2 concurrently and not consecutively, and on condition that the Deft. be confined to a jail type institution for a period of SIX (6) MONTHS, the execution of the remainder of the sentence is suspended and the Deft. is placed on probation for a period of THIRTY (30) MONTHS to commence upon the conclusion of the term of imprisonment. --- LASKER, J.</p>
11-74	<p style="text-align: right;">/(#74,534)</p> <p>ARTHUR FRANGELIO- Filed Judgment and Commitment- It Is Adjudged that the Deft. is hereby committed to the custody of the Atty General for imprisonment for a period of TWO (2) YEARS on each of the counts 1 and 2 and, on condition that the Deft. be confined in a jail or treatment type institution for a period of NINETY (90) DAYS, the execution of the remainder of the sentence on imprisonment is suspended and the Deft. placed on Probation for a period of TWENTY-ONE (21) MONTHS, subject to the standing probation order of this court., these sentences to run concurrently and not consecutively and the Deft. is FINED the sum of \$1250. on each count, to be paid within NINETY (90) DAYS hereof or the Deft. to stand committed in lieu of payment. --LASKER, J.</p>
11-74	<p>LEONARD HARRISON- Filed Judgment and Commitment- It Is Adjudged that the Deft. is hereby committed to the custody of the Atty General for imprisonment for a period of TWO (2) YEARS on each of counts 1 and 2, on condition that the Deft. be confined in a jail or treatment type institution for a period of SIXTY (60) DAYS, the execution of the remainder of the sentence of imprisonment is suspended and the Deft placed on Probation for a period of TWENTY-TWO (22) MONTHS, subject to the standing probation order of this court, these sentences to run concurrently and not consecutively. --- LASKER, J.</p>
11-74	<p style="text-align: right;">/(#74,536)</p> <p>LAWRENCE E. JOHNSON- Filed Judgment and commitment- It Is Adjudged that the Deft. is hereby committed to the custody of the Atty General for imprisonment for a period of TWO (2) YEARS on each of counts 1 and 2, on condition the Deft. be confined in a jail or treatment type institution for a period of 120 DAYS, the execution of the remainder of the sentence of imprisonment is suspended and the Deft. is placed on Probation for a period of TWENTY (20) MONTHS, subject to the standing probation order of this court, these sentences to run concurrently and not consecutively and the Deft. is FINED the sum of \$750.00 on each count, to be paid within NINETY DAYS hereof the Deft. to stand committed in lieu of payment. -- LASKER, J.</p>
11-74	<p style="text-align: right;">/(#74,541)</p> <p>LOUIS VISCONTI- Filed Judgment and Commitment- It Is Adjudged that the Deft. is hereby committed to the custody of the Atty General for imprisonment for a period of TWO (2) YEARS on each of counts 1 and 2 and, on condition that the Deft be confined in a jail or treatment type institution for a period of THIRTY (30) DAYS, the execution of the remainder of the sentence of imprisonment is suspended and the Deft. is placed on Probation for a period of TWENTY-THREE (23) MONTHS, subject to the standing probation order of this court, these sentences to run concurrently and not consecutively and the Deft. is fined the the Sum of \$125.00 on each count, to be paid within NINETY DAYS hereof or the Deft. to stand committed in lieu of payment. -- LASKER, J.</p>

(Cont'd on Page #8)

## Docket Entries

8a

DATE	PROCEEDINGS
6-11-74	EDDIE WASHINGTON= Filed Judgment and Commitment=(#74-535) It Is Adjudged that the Deft. is hereby committed to the custody of the Atty General for imprisonment for a period of TWO (2) YEARS on each of counts 1 and 2 and, on condition that the Deft. be confined in a jail or treatment type institution for a period of THIRTY (30) DAYS, the execution of the remainder of the sentence of imprisonment is suspended and the Deft. is placed on Probation for a period of TWENTY-THREE (23) MONTHS, subject to the standing order of probation of this court, these sentence to run concurrently and not consecutively and the Deft. is fined the sum of \$125.00 on each count, to be paid within NINETY (90) DAYS or the Deft. to stand committed in lieu of payment. ---LASKER, J.
6-14-74	LEONARD HARRISON= Filed Notice of Appeal to U.S.C.A., 2nd Circuit, from the final judgment June 11, 1974. (Mailed Notice).
6-14-74	LAWRENCE JOHNSON= Filed Notice of Appeal to U.S.C.A., 2nd Circuit, from the final judgment June 11, 1974. (Mailed Notice).
6-14-74	EDDIE WASHINGTON= Filed Notice of Appeal to U.S.C.A., 2nd Circuit, from the final judgment June 11, 1974. (Mailed Notice).
6-21-74	Filed the following paper received from Mag. Raby(72-1374) Docket Entry Sheet--Crim. Complaint--Disposition Sheet--Appearance Bond.
6-19-74	Filed notice of appeal by deft. Arthur Frangello from a judgment entered against him on June 10-74. m/n: DEFT. AND U.S. ATTORNEY'S OFFICE.
6-19-74	Filed notice of appeal by deft. Louis Visconti from a judgment entered against him on June 10-74. m/n: Deft AND U.S. ATTORNEY'S OFFICE.
6-19-74	ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, ROBERT PETERS, ALPHONSE CUZZO, ARTHUR FRANCELLO, LOUIS VISCONTI AND LAWRENCE JOHNSON- Filed notice of appeal from the judgment entered on June 11-74. m/n to U.S. ATTORNEY'S OFFICE and the defts. c/o VINCENT W. LAN 50 RIVERDALE AVE., N.Y.
6-28-74	HARRY G. WEIS= Filed Judgment & Commitment - It Is Adjudged that the Deft is hereby committed to the custody of the Atty General for imprisonment for a period of TWO AND ONE-HALF YEARS (2- $\frac{1}{2}$ ) on each of Counts 1 and 2 and, on condition that the Deft be confined in a jail type institution for a period of ninety (90) Days, the execution of the remainder of the sentence of imprisonment is suspended and the Deft. is placed on probation for a period of twenty-seven (27) Months, subject to the standing probation of this court. the sentence is to run concurrently on both counts. This sentence is to commence upon the completion of the present sentence being served by the Deft. in State custody. -- LASKER, J.
6-28-74	HARRY G. WEIS= Filed Deft's Notice of appeal from the judgment rendered June 28, 1974. Mailed copy of Notice to Deft, c/o Vincent W. Lanna, Esq., 50 Riverdale Ave, Yonkers, N.Y. 10701 and put a copy into the U.S. Atty box.
6-28-74	HARRY G. WEIS= filed affdvt of J. Lawrence Silverman for Writ of Habeas Corpus -- Writ issued to warden, Westchester County Penitentiary, NY - Ret: 6-28-74.
6-28-74	HARRY G. WEIS= filed writ of habeas Corpus directed to warden, Westchester County Penitentiary, NY, with marshal return -writ satisfied 6-28-74 --LASKER, J.



Docket Entries

9a

DATE	PROCEEDINGS
20-74	CUZZO = Filed notice that the Supplemental Record on appeal has been certified and transmitted to the U.S.C.A., 2nd Circuit.
-74	Rec'd the following papers from Mag. Raby (Mag#72-13590): Docket Entry Sheet for Deft's ROMAN, CUZZO, RUBEO - Criminal Complaint - Disposition Sheet - 3 Warrant of Arrest - Appearance Bond for the amount of \$5,000.00 w/o security for Defts ROMAN & ALPHONSE CUZZO.
1-74	MICHAEL CAMPOREALE = Filed Deft's Notice of Motion & Affdvt for a order directing an inspection of the Grand Jury Minutes and/or Dismissal of the Indictment.
26-74	Filed transcript of record of proceedings, dated FEB 11-1974
26-74	Filed transcript of record of proceedings, dated FEB 11-1974
26-74	Filed transcript of record of proceedings, dated MAY 30, 1974
-14-74	MICHAEL CAMPOREALE = Filed plttf's Affdvt in Opposition to Defts pre-trial motions for dismissal of the indictment and discovery and inspection of grand jury minutes.
-14-74	MICHAEL CAMPOREALE = Filed Pltff's Memorandum of Law in opposition to Deft's motion as stated above.
-14-74	Filed transcript of record of proceedings, dated JUNE 25, 1974.
-14-74	Filed transcript of record of proceedings, dated JUNE 11, 1974.
23-74	MICHAEL CAMPOREALE = J. L. Silverman, AUSA & Deft Atty Alvin Geller present - Jury Trial begun before Lasker, J.
24-74	" " " " = Trial continued.
25-74	" " " " = Trial continued. Jury deliberations begun at 10:28 AM. Jury returned at 11:25 AM. Jury finds Deft GUILTY as charged. PSI ordered. Sentence adj'd to 11-22-74 @ 10AM, Room # 1106. Bail cont'd. Trial concluded. - LASKER, J.
27-74	HARRY WEIS-Deft R.O.R. pending appeal.
23-74	M. CAMPOREALE-Filed Deft's affidavit in support of a motion to set aside Guilty Verdict pur. to Rule 29(c) of the FRCr P..
23-74	MICHAEL CAMPOREALE = Filed Deft's Memorandum in support of a motion to set aside Guilty Verdict pursuant to Rule 29(c) of the Fed. Rules of Criminal Procedure.
21-74	MICHAEL CAMPOREALE = Filed Deft's Supplemental Affdvt in support of a motion to set aside Guilty verdict pursuant to Rule 29(c) of the Federal Rules of Criminal Procedure.
20-74	MICHAEL CAMPOREALE = Filed Pltff's addvt in opposition Deft's motion to set aside a guilty verdict.

(Cont'd on Page #10)

## Docket Entries

10a

DATE

PROCEEDINGS

2-1-74 MICHAEL CANPOREALE- Filed Judgment & Commitment - It Is Adjudged that the Deft is hereby committed to the custody of the Atty General for a period of 2- $\frac{1}{2}$  (TWO and ONE HALF) years, and on condition that the Deft be confined in a jail or treatment type institution for a period of SIX (6) MONTHS, the execution of the remainder of the sentence of imprisonment is suspended and the Deft is placed on Probation for a period of TWO (2) YEARS, subject to the standing probation order of this court. --LASKER, J.

2-2-74 MICHAEL CANPOREALE- Filed Notice of Appeal to the U.S.C.A. on Judgment rendered 11-22-74 . M/n to Deft & Deft's Atty)

\* \* \*

7.

the intersection of Saw Mill River Road and Tompkins Avenue, Yonkers, New York.

13. On or about August 29, 1972, ANTHONY POLITI, MICHAEL ROMAN, and ROBERT PETERS travelled in an automobile to the Gulf Service Station referred to in OVERT ACT 12.

14. On or about August 29, 1972, ROBERT PETERS retrieved the envelope containing policy records referred to in OVERT ACT 13.

(Title 18, United States Code, Section 371)

#### COUNT TWO

The Grand Jury further charges:

From on or about September 1, 1970, and substantially continuously thereafter, up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS, the defendants, did unlawfully, wilfully and knowingly conduct, finance, manage, supervise, direct and own an illegal gambling business, to wit, a policy business (a) being in violation of the laws of the State of New York, Penal Law Sections 225.05 and 225.15, (b) involving five or more persons who conduct, finance, manage, supervise, direct and own a part of said illegal gambling business and (c) remaining in substantially continuous operation for a period in excess of thirty days and having a gross revenue of two thousand dollars (\$2,000) in any single day.

(Title 18, United States Code, Sections 1955 and 2)

#### COUNT THREE

The Grand Jury further charges:

1. On or about the 17th day of November, 1972, in the Southern District of New York, MICHAEL CAMPOREALE, the

defendant, while under oath as a witness before the Grand Jury of the United States of America, in a case pending before the said Grand Jury, unlawfully, wilfully and knowingly did make false material declarations as set forth below.

2. At the time and place aforesaid the Grand Jury was conducting an investigation to determine whether there had been committed in the Southern District of New York and elsewhere violations of the laws of the United States, to wit conspiracy and conduct of an illegal gambling business, in violation of Sections 371 and 1955, Title 18, United States Code, and other criminal violations.

3. It was a matter material to said Grand Jury to determine whether or not MICHAEL CAMPOREALE, the defendant, had met with or seen Louis Visconti or David Weygant on one or more occasions, and whether or not MICHAEL CAMPOREALE, the defendant, was able to recognize photographs of said individuals.

4. At the time and place aforesaid, while under oath, MICHAEL CAMPOREALE, the defendant, was shown Grand Jury Exhibits 3 and 3A of November 17, 1972, which were photographs of Louis Visconti and Grand Jury Exhibit 4 of November 17, 1972, which was a photograph of David Weygant.

5. MICHAEL CAMPOREALE, the defendant, unlawfully, wilfully and knowingly did declare as follows with respect to the aforesaid material matter:

Q Now, I hand you --

MR. FRIEDMAN: For the record, I am handing the witness the same exhibits that I handed to the previous witness --

Q .. and I ask you to look at these photographs and the photographs of the individuals that you know, would you please place on the left and the photographs of the individuals that you do not know, would you please on the right?

MR. FRIEDMAN: Let the record reflect that the witness has identified the exhibit from October 18, 1972, Exhibit No. 10; and the exhibit from November 17, 1972,

Exhibit No. 2; exhibit from October 18, 1972, Exhibit No. 12.

Q Now, with respect to all other exhibits that I just handed to you, do you recognize any of those individuals?

A No.

Q You have never met any of those other individuals?

A No, sir.

Q Are you positive of that?

A Yes, sir.

[Mr. Friedman:]

Let us go over this again. I just want to go over this.

With respect to Government's Exhibit I dated October 25, 1972, No. 3 and 3-A, dated November 17, 1972; No. 5 dated October 18, 1972; No. 6 dated October 18, 1972; No. 7 dated October 18, 1972; No. 20 dated October 25, 1972; No. 5 dated November 17, 1972, No. 4 dated November 17, 1972; No. 16 dated October 25, 1972; No. 21 dated October 25th; No. 11 dated October 18th; No. 17 dated October 18th, No. 15 dated October 25th; No. 17 dated October 25th; No. 18 dated October 25th and 14 dated October 18th, you never have seen those individuals; is that correct?

A As far as I can remember, no.

Q So you cannot remember seeing these fellows at all; is that correct?

A No, sir.

Q You are sure you cannot remember seeing them; is that correct?

A Yes.

Q You are sure you cannot remember ever seeing those individuals whose photographs I just showed you?

A Not that I can remember, no. I might have seen them.



Q You are sure you never remember having seen them; is that correct?

A Right.

6. The aforesaid testimony of MICHAEL CAMPOREALE, the defendant, as he then and there well knew and believed, was not true in that MICHAEL CAMPOREALE had in fact met Louis Visconti and David Weygant and did in fact remember having seen them.

(Title 18, United States Code, Section 1623)

Frank Filgin  
Foreman

Whitney Ruth Seymour, Jr.  
United States Attorney  
Southern District of New York

JMF:feh

EXCERPTS FROM TRANSCRIPT OF TESTIMONY BEFORE  
LASKER, D.J.

15a

\* \* \*

1 St/lf

Heutter-Cross

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2 surveillance so that they would be available to take pictures  
3 if the opportunity presented itself.

4 Q Would both of the cameras have been in the car  
5 that you were in?

6 A No. We would have -- it would be foolish to have  
7 two cameras in one car.

8 Q Did you ever take a photograph of Michael  
9 Camporeale?

10 A Not that I can recall.

11 Q Did you ever take a photograph of Louis Visconti?

12 A Yes.

13 Q And when did you take that photograph for the  
14 first time?

15 A As he was receiving policy work from --

16 Q Sir --

17 A -- Lawrence Johnson.

18 Q I don't mean to cut you off.

19 MR. SILVERMAN: He is not letting him answer the  
20 question.

21 THE COURT: The word "when" means in time, not  
22 what the circumstances were.

23 A I am sorry. Again, if I may refer to my logs,  
24 I believe April of 1972. The exact date I do not recall.

25 Q Was it one of the dates where Mr. Visconti met Mr.

1 gt/lf

Reutter-Cross

80

2 Camporeale?

3 A Yes, I believe it was. That was one of the dates.  
4 Whether that was the first date or not I'm not certain.

5 Q Did you ever see a photograph, Agent Reutter,  
6 of Mr. Camporeale and Mr. Visconti?

7 A Yes.

8 Q Together?

9 A Yes.

10 Q When did you see that photograph for the first  
11 time?

12 A In February of 1972.

13 Q Do you know who took that photograph?

14 A Yes, I do.

15 Q Who took it?

16 A Two agents, Agent McMurtrey and Agent  
17 Emory on consecutive days photographed Mr. Visconti and  
18 Mr. Camporeale together.

19 Q Do you know an assistant United States Attorney  
20 or a Strike Force lawyer named Mr. Friedman?

21 A Yes, I do.

22 Q And did you work with Mr. Friedman in connection  
23 with this case?

24 MR. SILVERMAN: Your Honor, I am going to object  
25 to this line of questioning.

1 et/lf

2 THE COURT: Overruled.

3 A Mr. Friedman prosecuted the case originally, yes,  
4 so I worked with him.

5 Q And did Mr. Friedman present this case to the  
6 Grand Jury?

7 A Yes, he did.

8 Q And did Mr. Friedman have the photographs that  
9 were taken in February, the photographs that depicted Mr.  
10 Camporeale and Mr. Visconti at the time Mr. Friedman presented  
11 this case to a Grand Jury?

12 A I'm not sure, but I don't believe he did. I  
13 think he was aware of the photographs that were taken and  
14 that is the extent of it.

15 Q Mr. Camporeale testified on November 17th of  
16 1972 before the Grand Jury, correct?

17 A I'm not sure. I believe he testified that day.

18 THE COURT: I believe that is agreed, is it not?

19 MR. SILVERMAN: That is the day, your Honor.

20 Q The photographs of Camporeale and Visconti were  
21 taken back in February of 1972, some approximately nine months  
22 earlier, correct?

23 A The surveillance photographs were, yes.

24 Q That is what I am talking about.

25 A Yes.

1 gt/lf

Reutter-Cross

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2 Q When did Mr. Friedman start his Grand Jury probe  
3 of this case?

4 THE COURT: If you know.

5 A I believe October of 1972.

6 Q And you were the agent in charge, correct?

7 A Yes. I was administratively responsible for this  
8 case.

9 Q And you were aware of the photographs depicting  
10 Camporeale and Visconti talking together or being together?

11 A That's correct.

12 Q Well, wasn't Friedman given those photographs and  
13 shown those pictures before he presented this case to the  
14 Grand Jury?

15 A As I said before, I don't believe he was. I  
16 made him aware that the photographs had been taken and what they  
17 depicted, but I don't recall actually physically bringing the  
18 photographs down and showing them to him.

19 Q You told Mr. Friedman that you had photographs in  
20 your possession of Camporeale, of Visconti, pictures that  
21 were taken during the course of the surveillances?

22 A That's correct.

23 Q And he was aware of that prior to November 17th  
24 of 1972?

25 A That's correct.

1 gt/lf

Reutter-Cross

2 C And was Mr. Friedman given pictures of Louis  
3 Visconti by you on or before November 17th of 1972?

4 A I gave him many photographs. They were not  
5 surveillance photographs.

6 Q Did you give him a picture of Visconti?

7 A Yes.

8 Q And did you give him a picture of David Weygant?

9 A Yes.

10 Q Did you give him a picture of Michael Camporeale?

11 A Yes.

12 Q And did you give him any surveillance photographs?

13 A Not that I can recall.

14 Q Did he ask you for surveillance photographs?

15 A Not that I can recall. He asked me if I had them

16 and as I just explained twice I told him what surveillance  
17 photographs we had and I'm not certain and I don't believe  
18 that they were shown to him prior to the date in question.

19 MR. GELLER: I have no further questions of this  
20 witness.

21 MR. SILVERMAN: I have no redirect, your Honor.

22 THE COURT: Thank you very much, Agent Reutter.

23 (Witness Excused)

24 MR. SILVERMAN: Your Honor, I have consulted with  
25 defense counsel and they have no objection, unless the Court

\*\*\*

1 gt/lf

2 Q Did you ever see a photograph of Mr. Camporeale  
3 meeting Mr. Visconti?

4 A Yes, sir.

5 Q When did you see such a photograph for the first  
6 time?

7 A I can't recall the exact day. It was during the  
8 course of the investigation. Once photographs were taken  
9 during the surveillance they were --

10 Q What month was it, sir?

11 A I don't know to give you an exact -- probably  
12 March. February or March. I don't know. Right in that  
13 time.

14 Q You don't know? Do you know who took the photo-  
15 graph that depicted Camporeale and Visconti?

16 A I can't recall right now. I could tell you two or  
17 three agents it could have been.

18 Q No. I am just asking you do you know which  
19 particular agent took the photograph.

20 A I wouldn't want to say the exact agent because I  
21 may be wrong.

22 Q So you don't know?

23 A I don't know.

24 Q Do you know if a photograph exists that depicts  
25 Mr. Camporeale meeting Mr. Weygant?

gt/lf

Barnett-Cross

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1  
2 A I don't know.

3 Q Have you ever seen such a photograph?

4 A I recall seeing a photograph, I think, of Mr.  
5 Weygant's car and -- I don't know. I wouldn't want to say  
6 because I may be inaccurate.

7 Q Do you know a U. S. prosecuting attorney named  
8 Mr. Friedman who worked on this case?

9 A I know Mr. Friedman, yes, sir.

10 Q To your knowledge, was Mr. Friedman aware of  
11 the existence of a photograph or photographs that depicted  
12 Mr. Visconti and Mr. Camporeale speaking together or being  
13 together?

14 A I wouldn't know. I couldn't answer for Mr.  
15 Friedman.

16 Q Did you ever speak to Mr. Friedman about this case?

17 A Oh, yes, I spoke to Mr. Friedman about this case,  
18 yes, sir.

19 Q Did you ever show Mr. Friedman any photographs?

20 A Me personally show Mr. Friedman photographs?

21 Q Yes.

22 A No, sir.

23 Q Did Mr. Friedman ever look at photographs in your  
24 presence?

25 A Not that I recall.



1 gt/lf

Barnett-Cross

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2 Q Was Mr. Friedman given pictures of Louis Visconti,  
3 to your knowledge?

4 A According to other agents involved in the investi-  
5 gation he was. I heard them say that he was shown photographs.  
6 Now, I didn't see him get them.

7 Q Did you also hear these other agents say that  
8 Mr. Friedman --

9 THE COURT: Sustained.

10 MR. GELLER: I will withdraw it.

11 THE COURT: We cannot use such hearsay testimony  
12 as evidence.

13 Q You have told us about incidents that occurred on  
14 February 10th, February 17th, March 6th, March 18th and March  
15 19th.

16 Other than those dates --

17 MR. SILVERMAN: Objection. I believe he is  
18 mistaken as to the date.

19 Q April 18th and April 19th. Forgive me.

20 Other than the times that you have discussed in  
21 this courtroom, did you see Mr. Camporeale meet Mr. Visconti  
22 on any other times?

23 A I'd have to review all my logs to answer that, sir,  
24 because it's a gambling investigation over a lengthy period  
25 of time and I've prepared numerous logs. In addition to that,

\* \* \*

St/lf

Emory-Direct

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A Yes. Mr. Visconti drove the white Oldsmobile into the parking lot of the Barker's Shopping Center in, I think, Fishkill address, Fishkill, New York.

Q Did you observe anything occur at that particular location?

A I saw him enter the parking lot. That's all I saw as far as his activities, into the parking lot.

Q And who was driving the Oldsmobile on that date?

A Mr. Visconti.

Q Did you observe the Dodge on that particular date?

A Yes, I did.

Q And who was driving the Dodge on that date?

A Mr. Camporeale.

MR. SILVERMAN: I have no further questions, your Honor.

## CROSS EXAMINATION

BY MR. GELLER:

Q The photographs, Agent Emory, that have been introduced in evidence, when were those photographs developed?

A From my own knowledge I would say they were probably developed the next day.

Q Which would have been February 23, 1972?

A If it wasn't a weekend, then it was probably developed.

1 gt/lf

Emory-Cross

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2 the next day.

3 Q Where were the photographs kept?

4 A They were kept in our office in New York City,  
5 sir.6 Q And did there come a time when the photographs  
7 were brought over to the Strike Force office?

8 A Copies, yes, of the photographs.

9 Q Copies of the surveillance photographs?

10 A Right, sir.

11 Q And when was that done, sir?

12 A I couldn't give you an exact date, sir. I don't  
13 know.14 Q Well, it was done prior to the time the case was  
15 presented to the Grand Jury, was it not?16 A I couldn't answer that because I'm not sure.  
17 I would think so, but I can't answer it positively.18 Q And when you say copies of the very photographs  
19 Exhibits 8 and 8-A were brought to the Strike Force office, is  
20 that not correct?

21 MR. SILVERMAN: Objection, your Honor.

22 A I can't answer that.

23 MR. SILVERMAN: Can he state a time?

24 THE COURT: He says he doesn't know when they  
25 were brought there.

gt/lf

Emory-Cross

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1           Q       You said you did believe it was before the matter  
2  
3 was presented to the --

4           THE COURT: He said he believed it, but he  
5 didn't know, and his belief is unimportant.

6           C       Who brought the photographs to the Strike Force?

7           A       I would think that Agent Keutter --

8           THE COURT: Don't tell us what you would think.  
9 Do you know who brought them?

10          THE WITNESS: I can't say, sir.

11          Q       Well, did you?

12          A       No, I did not.

13          THE COURT: You know as an investigator that we  
14 can only go on facts.

15          Q       Do you know the name of the prosecutor from the  
16 Strike Force who presented this case back in November of 1972?

17          A       I think it was Attorney Friedman.

18          Q       Did you ever talk to Mr. Friedman about this  
19 case?

20          A       I certainly did.

21          Q       And did you talk to Mr. Friedman before November  
22 17th of 1972?

23          A       I can't answer that definitely, sir. I don't  
24 know.

25          Q       Well, Agent Emory, do you know that Mr. Camporeale

1 st/lf Emory-Cross 112

2 testified in the Grand Jury on November 18th of 1972? Are  
3 you aware of that?

4 THE COURT: Whether you are aware of it or not,  
5 it is a fact. Now why don't you ask him the next question.

6 Q When did you talk to Attorney Friedman about your  
7 role in this investigation for the first time?

8 A I can't answer that, sir. I don't recall.

9 Q Well, was it prior to the Grand Jury presentment,  
10 to the inception of the Grand Jury presentment?

11 A I can't answer that. I'm just not sure.

12 Q Do you recall what month it was?

13 A No, sir, I don't.

14 Q Do you recall what year it was?

15 A Well, naturally it had to be either in 1972 or  
16 1973.

17 Q And as you sit here now you don't recall whether  
18 it was 1972 or 1973 when you spoke to Mr. Friedman about  
19 what you did in connection with this case?

20 A No, sir, I don't.

21 Q Did you ever tell Mr. Friedman at any point that  
22 you took a photograph of Mr. Visconti and Mr. Camporeale  
23 seated in an automobile?

24 A Yes, I think I did. I did.

25 Q Did you ever take a photograph of David Weygant?

gt/lf

Emory-Cross

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- 1  
2 A I would have to check the logs to find that out.  
3 Q You don't know?  
4 A I don't recall.  
5 Q Do you know who David Weygant is?  
6 A Yes, sir, I do.  
7 Q He is going to be a Government witness in this  
8 case, correct?  
9 MR. SILVERMAN: Objection, your Honor.  
10 THE COURT: Sustained.  
11 Q Did you ever take a photograph of Michael  
12 Camporeale other than those photographs in 8 and 8-A?  
13 A Yes, sir, I did.  
14 Q Did you ever take any other photographs of Mr.  
15 Camporeale and Mr. Visconti?  
16 A I would have to check to be certain, sir.  
17 Q You are not sure?  
18 A No.  
19 Q The photographs that you took here, how long did  
20 it take you to take those shots?  
21 A Inside of -- all the shots, I think, were taken  
22 in a period of four to five minutes.  
23 Q And how long were Mr. Camporeale and Mr. Visconti  
24 together at that time?  
25 A In the car together, approximately two to three

\* \* \*

1 et/lf

Weygant-Redirect

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2 Mr. Weygant, how long after you began working in  
3 May of 1972 doing this collection work of numbers did you stop  
4 working?

5 I think five weeks later. I'm not sure. Five,  
6 six weeks.

7 A Little over a month?

8 A little over, yes.

9 And how did it come about that you stopped  
10 working in this job?

11 A Everybody, you know -- you know, everybody got --  
12 people got arrested and that was it, I quit.

13 In other words, you were doing it for about five  
14 weeks and you got arrested?

15 A Approximately, yes.

16 Q At the time of your arrest, were you advised of  
17 your rights?

18 THE COURT: Mr. Silverman, we don't need to go  
19 into this. This isn't appropriate for redirect.

20 Q Did you make a statement to the F.B.I. agents  
21 at the time you were arrested?

22 THE COURT: He has already said he did.

23 A Yes.

24 Q It was that same day, is that correct?

25 A Right.



1 11/11

Weygant-Redirect

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2 Q How long after that did you meet Mr. Burke?

3 A I believe I met him the next day.

4 MR. SILVERMAN: I have no further questions.

5 MR. GELBER: I have nothing else.

6 THE COURT: Thank you very much, Mr. Weygant.

7 (Witness Excused)

8 THE COURT: We will take a short recess.

9 (Recess)

10 (In open court - jury present)

11 THE COURT: All right, Mr. Silverman.

12 MR. SILVERMAN: Your Honor, at this time I would  
13 like to read from Government's Exhibit 1-B for identification,  
14 which is from Exhibit 1.

15 THE COURT: Why is it 1-B, then?

16 MR. SILVERMAN: These are just for identification,  
17 just so the Court knows what I am reading from.18 These are pages from Exhibit 1 that I will be  
19 reading and I just segregated them into one package.

20 THE COURT: All right.

21 MR. SILVERMAN: It is beginning on page 31 of  
22 Government's Exhibit 1.23 This is from Government's Exhibit 1, which is  
24 the questioning of Michael Camporeale, the defendant, on  
25 November 17, 1972. The inquirer was Mr. Friedman at that time.



1 11/11

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2 THE COURT: Excuse me. Can I follow you with  
3 the exhibits themselves?

4 MR. SILVERMAN: Yes, your Honor.

5 I will start on page 31, line seventeen, your  
6 Honor.

7 "Q Do you know Mr. Louis Visconti?

8 "A Not to my knowledge, I don't believe I  
9 do.

10 "Q Did you ever meet him?

11 "A I don't think so.

12 "Q Did you ever go to the Twilight Bar in  
13 Newburgh?

14 "A I might have.

15 "Q Did you or didn't you?

16 "A I can't say for sure. I went to a lot  
17 of places in Newburgh.

18 "Q Do you or don't you know Louis Visconti?

19 "A I can't give you a positive answer.

20 I met a lot of people in Newburgh.

21 "Q Who did you talk to about your testimony?

22 "A Nobody.

23 "Q Nobody at all?

24 "A How could I talk to somebody about my

25 testimony? I didn't know what testimony I was going to give.

1 at/18

2 "Q On February 10, 1972, did you meet Mr.  
3 Lou Vincenti in Beacon?

4 "A It's possible.

5 "Q On February 2, 1972, did you meet with  
6 Mr. Lou Vincenti in the A & P parking lot in Beacon, New York?

7 "A Could be. I told you I met a lot of people.  
8 I wasn't on a name basis, to tell you the truth.

9 "Q Who is this person that you met?

10 "I show you Government's Exhibit 3 and 3-A,  
11 dated November 17, 1972. This is one exhibit.

12 "You said you never met that individual?

13 "A As far as I can recollect, I don't think  
14 I have.

15 "Q Have you ever met that individual?

16 "A I don't think I have.

17 "Q You don't recall ever meeting that  
18 individual?

19 "A No.

20 "Q No?

21 "A Not from this picture. Not the guy in this  
22 picture.

23 "Q Have you seen him several times?

24 "A I can't tell you. I can't be sure, to  
25 tell you the truth.

1 05/16

2 "Q Did you meet that individual or did you  
3 not?

4 "A I told you I can't be sure. I met maybe  
5 a hundred people up there.

6 "Q Where?

7 "A Around Beacon, Newburgh.

8 "Q Beacon and Newburgh?

9 "A Around there, yes.

10 " Did you meet him in the parking lot of  
11 the A & P? Did you meet that person represented in that  
12 picture in the parking lot of the A & P in Beacon?

13 "A Possibly.

14 "Q Did you or didn't you?

15 "A Possibly. That's the best answer I can  
16 give you.

17 "Q Did you meet that individual and then  
18 meet with Roy Hyatt in the Howard Johnson's in Greenberg?

19 "A Possibly.

20 "Q Do you know Roy Hyatt?

21 "A I think so.

22 "Q Do you know him?

23 "A I think so.

24 "Q Where did you meet him?

25 "A I am not sure if I met him.

1 et/lf

2 "Q You are not sure whether you met h'm?

3 "A No.

4 "Q You just think that you met him, is that  
5 correct?

6 "A I told you I met a lot of people.

7 "Q Tell me what you were doing in February.

8 "A Booking numbers.

9 "Q You were booking numbers?

10 "A Yes.

11 "Q Who were you booking it for?

12 "A No.

13 "Q You and you alone, is that correct?

14 "A Yes.

15 "Q Nobody else, is that correct?

16 "A No.

17 "Q Now, have you ever gone and met that  
18 person represented in that picture that is in front of you?  
19 You meet him at Fishkill on March 6, 1972?

20 "A I'm telling you I could have met him.

21 "Q You could have?

22 "A I don't remember every place I've been  
23 and every person I've met, especially when I was up there.

24 "Q Why don't you remember especially when  
25 you were up there?

GE/10

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"A I met a lot of people, some colored, some white, some girls, some Spanish. I'm not going to say I didn't meet him.

"Q How about the next day, March 7, 1971, did you meet --

THE COURT: Is that date correct, 1971?

MR. SILVERMAN: That is the way it is.

THE COURT: Counsel agree it should be 1972.

MR. SILVERMAN: It should be 1972.

MR. GELLER: I have no objection.

MR. SILVERMAN: "A Possibly.

"Q Possibly?

"A Right.

"Q How about March 14th, did you meet that man in Beacon?

"A Possibly.

"Q You don't recall?

"A Not for sure, no.

"Q Not for sure?

"A No.

"Q Tell me how sure you are whether or not you have met that man.

"A I'm just saying I could have met him.

"Q You could have met him?

1 et/lf

2 "A Right.

3 "Q Did you meet him?

4 "A I could have.

5 "Q What do you mean by you "could have"?

6 "A I'm telling you I don't remember every  
7 person that I've met. That's what I mean.

8 "Q Now, do you know Mr. Eugene Woska?

9 "A I don't think so.

10 "Q You don't think so?

11 "Now, on March 24th did you meet  
12 Mr. Visconti in the same parking lot in Fishkill?

13 "A Maybe I did possibly.

14 "Q Now, on April 18th did you meet Mr.  
15 Visconti in Newburgh?

16 "A I could have.

17 "Q Did you meet that person represented in  
18 that picture in front of you in Newburgh?

19 "A I could have.

20 "Q Now, how about April 19th, did you meet  
21 with that individual at Newburgh again?

22 "A Could have.

23 "Q What do you mean "could have"?

24 "A I told you before I don't remember every  
25 person I met up there.



gt/lf

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"Q You know Mr. Weis, is that right?  
"A Yes, I know Mr. Weis. I see him every  
day.  
"Q Did you meet with Mr. Weis and Mr. Visconti  
In Beacon?  
"A Possibly.  
"Q Did you talk with Mr. Visconti?  
"A Not that I can remember.  
"Q Did you talk with that individual  
represented in that picture?  
"A Not that I can remember.  
"Q You never talked with him?  
"A Not that I can remember.  
"Q Did you meet with that individual  
represented in that picture in front of you, did you meet  
with him and Mr. Weygant at Central Valley?  
"A Possibly.  
"Q Possibly?  
"A Yes, that's right.  
"Q So you really don't recall, is that  
right?  
"A No, not to be exact.  
"Q Not to be exact?  
" No.

1 gt/lf

2 "Q How about being a little more specific?

3 "A I can't. I'm telling you I could have met  
4 the guy. That's all I can say.

5 "Q Well, I have here in my notes that from  
6 February through May it appears you met with that man about  
7 eleven different times in about three or four different  
8 places. Are you telling this Grand Jury, who has to judge  
9 whether you are perjuring yourself, that you do not recall  
10 whether you know the man represented in this picture?

11 "A I could know him.

12 "Q Are you telling this jury you don't know  
13 that man pretty well?

14 "A I told you I could know him.

15 "Q Do you know that man pretty well?

16 "A It's possible.

17 "Q It's possible?

18 "Do you want to go down in front of the judge  
19 and have him direct you to give responsive answers, sir?  
20 Is that what you want? Is that what you came here for?

21 "A I tell you I could have met the guy.

22 "Q Who are you trying to fool?

23 "A I'm trying to fool nobody.

24 "Q Look at the jury and you tell them what  
25 you are telling me.

1 gt/lf

2 "Now, do you know that man pretty well, Mr.  
3 Visconti?

4 "A I told you I could know him, I could have  
5 met him.

6 "Q I am asking you whether you know him  
7 pretty well.

8 "A No, I don't know him pretty well.

9 "Q Did you meet the person represented in  
10 that picture at least eleven times from February through  
11 May, 1972?

12 "A I could have.

13 "Q You could have. Are you telling this  
14 jury that is supposed to decide whether you are perjuring  
15 yourself or not that you could have? Is that what you are  
16 telling them?

17 "A I could have met the guy.

18 "Q Is that what you made these people wait  
19 for two hours to tell them? Do you know Mr. David Weygant?

20 "A What was the name again?

21 "Q David Weygant.

22 "A I don't think I ever heard the name  
23 before.

24 "Q You don't think so? Did you ever see that  
25 man (Lambertine)?

1 gt/lf

2 "A I don't think so. The name doesn't ring  
3 a bell.

4 "Q Where do you know Mr. Roman from?

5 "A I met Mr. Roman once."

6 THE COURT: Excuse me. There is an awful lot of  
7 material that is coming up now that is not material. It has  
8 to do with Mr. Roman --

9 MR. SILVERMAN: I believe, your Honor, I am  
10 indicating having a meeting with an individual once and  
11 his recollection, his clear recollection of a meeting that  
12 occurred six months prior.

13 THE COURT: All right, go ahead.

14 MR. SILVERMAN: "Q Where did you meet him?

15 "A In a bar.

16 "Q When?

17 "A Maybe six months ago in Nyack.

18 "Q What bar?

19 "A I think it was High Tors Bar.

20 "Q What did you say to him and what did he  
21 say to you?

22 "A I don't remember the exact conversation.

23 "Q Well, tell us.

24 "A Small talk, that's all.

25 "Q What did he say?

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2 "A I don't remember the exact conversation.

3 "Q Tell us to your best recollection what  
4 he said.

5 "A He said, 'Nice place.' I said, 'Yes.'  
6 He said, 'Do you want a drink?' I said, 'Yes.'

7 "Q That was the only time that you met Mr.  
8 Roman, is that your testimony?

9 "A Except when I see him down here.

10 "Q That is your testimony?

11 "A Right."

12 THE COURT: Mr. Geller, do you want to read some-  
13 thing from this transcript?

14 MR. GELLER: Not at this point. I will reserve  
15 that for my summation.

16 FB. SILVERMAN: Your Honor, at this time the  
17 Government will rest.

18 THE COURT: Ladies and gentlemen, there are  
19 certain matters of law I have to discuss with the attorneys  
20 at this time, so if you go to the jury room we will be ready  
21 for you in a few minutes.

22 (The jury left the courtroom.)

23 MR. GELLER: May I be heard, your Honor?

24 THE COURT: Yes.

25 MR. GELLER: Your Honor, at this time Michael

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2 Camporeale would move to dismiss count three, move for  
3 acquittal under Rule 29 for the following reasons.

4 It is the defendant's contention, Judge, that the  
5 entire judicial process that led to his indictment was  
6 violative of the due process clause of the constitution.

7 THE COURT: In what respect?

8 MR. GELLER: Your Honor, the defendant was brought  
9 before the Grand Jury and took the Fifth Amendment before  
10 a particular Grand Jury. He was then given immunity and  
11 brought back to that same Grand Jury where he had taken the  
12 Fifth Amendment.

13 He then, your Honor, at the inception of question-  
14 ing concerning a gambling operation, the prosecuting  
15 official engaged in a fairly extensive examination of this  
16 defendant's criminal background, including arrests for  
17 narcotic cases, petit larcenies, disorderly conduct and  
18 he brought out arrests as well as convictions, and I would  
19 suggest to your Honor that the very purpose of that was to  
20 make Mr. Camporeale look bad in front of this particular  
21 Grand Jury, your Honor.

22 THE COURT: Do you have any authority for the fact  
23 that something of that kind constitutes a lack of due process  
24 in questioning a witness before the Grand Jury?

25 MR. GELLER: Your Honor, I think there are



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2 cases that go -- there is a case United States against DiGranzia,  
3 213 Fed. Sup. at page 232, which is an Eastern District case  
4 in Illinois where the Government engages in unfair questions  
5 of a witness before a Grand Jury on the issue of credibility  
6 where they bring out things that really have no bearing that  
7 a perjury indictment, perhaps, should be dismissed. I think  
8 that was the holding in that particular case, your Honor.

9 Your Honor, it is the defendant's basic contention  
10 that this entire Grand Jury presentment regarding Mr.  
11 Comporeale was a device to indict him for perjury.

12 THE COURT: Yes, I understand that that is your  
13 contention, but you have to put in some proof.

14 Of course, whether that occurs at this time or  
15 not I don't know, but let us look at it.

16 What pages of the transcript are you referring  
17 to?

18 MR. GELLER: Your Honor, page 28, about five or  
19 six lines down.

20 THE COURT: Let me note for the record as  
21 far as I can see the discussion that you are referring to  
22 would start at line nine on page 28 and run through line ten  
23 on page 29, is that correct?

24 MR. GELLER: That's correct, your Honor.

25 THE COURT: I will state for the record, although

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2     this is part of the record now, that it is clear the defendant  
3     was asked about his criminal record and whether he had been  
4     addicted to drugs and then he said he had and he was then  
5     on methadone.

6             MR. GELLER: Yes, your Honor.

7             May I go on with my argument, Judge?

8             THE COURT: Yes.

9             MR. GELLER: Four times on November 17, 1972, Mr.  
10     Friedman suggested or threatened or implied that Mr.  
11     Camporeale was facing a perjury prosecution. On four  
12     occasions he said that, "This is the very Grand Jury that has  
13     the power to indict you for perjury."

14             Up until that point Mr. Camporeale's answers to  
15     questions related to Mr. Visconti and Mr. Weygant were  
16     basically, "I don't remember, it could be, I don't know."

17             But he was threatened four times with perjury,  
18     your Honor, and I think it was finally, after the fourth  
19     perjury threat by Mr. Friedman that Mr. Camporeale at one  
20     point made a definitive answer, "No, I don't think I know  
21     this man."

22             THE COURT: He could have said, "Yes, I do know  
23     this man," too.

24             MR. GELLER: He could have, your Honor. But,  
25     Judge, I think there was more to it. While this was occurring

1 et/lf

2 the Government well knew that Mr. Friedman was well aware that  
3 there were photographs in existence that showed Mr. Camporeale  
4 meeting --

5 THE COURT: No, I don't think you have proven yet  
6 that the Government was well aware that Mr. Friedman knew  
7 there were photographs.

8 There were photographs apparently and the testi-  
9 mony to date is that Mr. Friedman may or may not have been  
10 aware of those photographs. But let me say this, too.

11 First of all, that's all that the testimony is  
12 so far, that there were photographs and none of the agents,  
13 as I recall, said that they brought those photographs to the  
14 attention of Mr. Friedman.

15 MR. GELLER: I differ with your Honor on that  
16 specific point. Agent Keutter specifically said Mr.  
17 Friedman was aware of the surveillance photographs, even  
18 though he hadn't shown them to him, but he was well aware of  
19 the photographs prior to November 17th. That is my recollection.

20 THE COURT: Did you --

21 MR. REUTTER: No. I said I didn't know when he  
22 was made aware of the photographs, except that I did tell him --

23 THE COURT: If this becomes a critical point, I  
24 will, of course, review the record, but my recollection is, and  
25 I was listening for it because you were bringing it out, that

1 et/lf

2 the proof was that there was no proof and certainly no  
3 weighty proof that Mr. Friedman was aware at the time of the  
4 examination that there were photographs showing Mr. Camporeale  
5 and Mr. Vincenti together.

6 The next question that arises is whether if Mr.  
7 Friedman was aware that there were such photographs he was  
8 under any obligation to put them before Mr. Camporeale. I  
9 rather doubt that.

10 I think the question of due process or entrapment  
11 or pressure or whatever it is that you are putting before me  
12 here would depend on proving that Mr. Friedman intended  
13 willfully to bring about a prosecution for perjury here, and  
14 the transcript, as I react to it at the moment, anyway, is  
15 only that Mr. Friedman was, indeed, trying to get certain  
16 answers from Mr. Camporeale, but not that he was willfully  
17 trying to see to it that Mr. Camporeale was indicted for  
18 perjury.

19 MR. GELLER: That is basically the gist of my  
20 argument, that this entire questioning of Mr. Camporeale was  
21 for one purpose, to indict him for perjury.

22 THE COURT: Yes. You said that at the very outset  
23 of the day and I am well aware of it.

24 MR. GELLER: Yes. And, frankly, the four threats  
25 of perjury, the criminal record that was developed that

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2 were material.

3 [ MR. GELLER: Finally, your Honor, I would ask the  
4 Court to dismiss count three of this indictment because, as  
5 I understand the way the count is drafted, your Honor, the  
6 Government is alleging basically in two sections of the  
7 Grand Jury testimony that Mr. Camporeale has lied. They  
8 take out a portion of five or six questions that appear on  
9 page 27 and they claim that that constitutes perjury and then  
10 they go on to another questioning session that occurred at  
11 about page 52 of the Grand Jury minutes.

12 If your Honor reads the first section, it doesn't  
13 even charge perjury. It doesn't even charge a crime.

14 If I may, Judge, the question, "I ask you to look  
15 at these" -- sorry.

16 "O I hand you" --

17 THE COURT: Where are you reading from?

18 MR. GELLER: Your Honor, I am reading from the  
19 indictment.

20 THE COURT: Just a minute. Let me get the  
21 indictment. You jump too fast for me.

22 Where is it?

23 MR. GELLER: Paragraph five in count three.

24 It reads: "Michael Camporeale, the defendant,  
25 unlawfully, willfully and knowingly did declare as follows with

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2 "respect to the aforesaid material matter:

3 "Q Now, I hand you" --

4 "MR. FRIEDMAN: For the record, I am handing  
5 the witness the same exhibits that I handed to the previous  
6 witness."

7 Up until now, Judge, we have no idea what exhibits  
8 the Government is talking about or what Mr. Friedman was  
9 talking about.

10 THE COURT: But we now know because it has all been  
11 explained.

12 MR. GELLER: No, it hasn't. There has been no  
13 suggestion as to who the previous witness was, as to what  
14 photographs the previous witness was given. It is totally  
15 in the dark. I really don't understand that.

16 Then it goes on --

17 THE COURT: Mr. Silverman, what proof is there  
18 that the exhibits referred to just quoted by Mr. Geller are  
19 the exhibits or are the pictures of Mr. Visconti and Mr.  
20 Weygant?

21 MR. SILVERMAN: Your Honor, that is not the  
22 perjurious statement, the questioning of Mr. Friedman. The  
23 perjurious assignment is what follows after Mr. Friedman  
24 shows the pictures to the defendant.

25 MR. GELLER: What pictures?



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2 THE COURT: We have no notice what pictures we  
3 are talking about. Where are they identified?

4 MR. SILVERMAN: They are identified, your Honor,  
5 in the next paragraph when he says, "Let's go over this  
6 again, I want to go over this. With respect to Government's  
7 Exhibit" -- and then the pictures are named in the second  
8 line and in the fourth line of that paragraph when they refer  
9 to exhibits B and B-A, dated November 17th and 4, dated  
10 November 17, 1972.

11 THE COURT: But that doesn't prove that the  
12 pictures that were referred to at that point are the same  
13 pictures as were referred to earlier.

14 MR. GELLER: It is 30 pages later in the testimony.

15 THE COURT: I think that defense counsel may have  
16 a point there and the way to cure that is to eliminate the  
17 earlier material and simply leave the later material.

18 I am not agreeing with Mr. Geller because there  
19 is a jump of 30 pages, but because I am not sure that the  
20 exhibits referred to in the first portion starting in paragraph  
21 five are established in this trial to be the exhibits that  
22 were Mr. Vincenti and Mr. Weygant.

23 I don't know if you can cure that by looking  
24 at the Grand Jury testimony.

25 The point is that this jury doesn't know what

1 et/lf

2 you are talking about at that point.

3 MR. GELLER: That is my contention, your Honor.

4 THE COURT: I don't really think that is very  
5 vital material, anyway. I think you can just as well start  
6 on page nine at the point, "Mr. Friedman: Let us go over this  
7 again."

8 MR. SILVERMAN: I don't think it charges it at  
9 all. I do not think by eliminating the paragraphs on page  
10 eight of the indictment down to, "Mr. Friedman: Let us go  
11 over this again," I don't think that is necessary.

12 THE COURT: I don't either. Therefore, I think  
13 in the light of Mr. Geller's argument, which seems to me  
14 to have merit, that that material should be eliminated and  
15 should not be brought to the jury's attention or read to them  
16 as part of the assigned perjury.

17 MR. SILVERMAN: That is acceptable to the  
18 Government, your Honor.

19 THE COURT: All right. Then that is stricken.

20 To be specific, what is stricken is the material  
21 starting at the beginning of paragraph five on page eight  
22 and going through the words, "Answer: Yes, sir," before the  
23 words, "Mr. Friedman," in brackets on page nine.

24 Anything further, Mr. Geller?

25 MR. GELLER: Will your Honor bear with me for just

1 at/it

2 one moment.

3 MR. SILVERMAN: Your Honor, may I be heard on  
4 I believe it was the second or third point Mr. Geller raised  
5 in reference to the constitutional basis for which section  
6 the Grand Jury charged?

7 THE COURT: Yes. I would like any assistance  
8 you can give me on that.

9 MR. SILVERMAN: I indicated in my pretrial  
10 memorandum of law on this particular point --

11 THE COURT: I am afraid I haven't seen your  
12 pretrial memorandum of law. That doesn't mean to say there  
13 isn't one.

14 In answer to the motion to dismiss the indictment?

15 MR. SILVERMAN: Yes.

16 point one of that, which was an answer to --

17 THE COURT: This apparently arrived during my  
18 vacation and, unfortunately, I didn't see it.

19 MR. SILVERMAN: I would like to refer the Court  
20 to page two, point one. On the bottom of the page, your  
21 Honor, I specifically refer to that problem that the defendant  
22 did raise in his pretrial motions.

23 The United States Supreme Court has held that the  
24 Government has an opportunity, where Congress gives us two  
25 statutes, to proceed under either statute.

1 at/10

2 THE COURT: But the question hasn't been settled  
3 in this circuit, has it?

4 MR. SILVERMAN: I believe it has in Ruggiero, which  
5 is a Second Circuit case, 1973.

6 THE COURT: Pardon me. I didn't notice.

7 Right.

8 MR. SILVERMAN: Your Honor, there was an earlier  
9 Second Circuit case by the name of United States vs. Eisenmann,  
10 1968 Second Circuit case that I cited on page three.

11 MR. GELLER: Your Honor, finally, I think what  
12 is left in this indictment is an allegation that Mr. Camporeale  
13 committed perjury basically in response to one question, and  
14 if I may read that question, your Honor, by Mr. Friedman.

15 "Let us go over this again. I just want to go  
16 over this. With respect to Government's Exhibit 1, dated  
17 October" --

18 THE COURT: And so on. Don't read the whole  
19 thing.

20 MR. GELLER: I would suggest to your Honor --  
21 then, "You have never seen these individuals, is that correct?"

22 The answer is, "As far as I can remember, no."

23 I would suggest to your Honor that that question  
24 refers to apparently fifteen or eighteen exhibits, eighteen  
25 different people.

1 et/lf

2 THE COURT: That is a matter for you to take up  
3 with the jury.

4 MR. GELLER: Judge, there has been no proof. --

5 THE COURT: About what?

6 MR. GELLER: Let us take Government's Exhibit 1.  
7 The Government now is alleging that when Camporeale said,  
8 "No, I don't remember Government's Exhibit 1," the Government  
9 is alleging that that is perjury. There is no proof in this  
10 case --

11 THE COURT: No, I don't construe it that way.  
12 I construe it to mean, "You have never seen any of those  
13 individuals, is that correct?"

14 MR. GELLER: And the answer is no.

15 THE COURT: And the Government claims that is a  
16 lie.

17 MR. GELLER: But can it be a lie when there is  
18 no proof in this record, can the jury find on the strength  
19 of this record --

20 THE COURT: Yes, I think they can. They can find  
21 he knew some of them but not others.

22 MR. GELLER: They can only find that he knew  
23 Weygant and Mr. Visconti.

24 THE COURT: That's all they need to find.

25 MR. GELLER: But other material is superfluous.

1 et/lf

2 THE COURT: It seems to me it would be very helpful  
3 to you to argue to the jury that he was shown a hundred  
4 pictures and he didn't know Q8 or there is no proof that he  
5 knew Q8 and he may have been mixed up. But I think it is  
6 sound as an indictment.

7 MR. SILVERMAN: The fact of the matter is, your  
8 Honor, the other pictures aren't in evidence and he could  
9 have known them and the answer would have been correct.

10 THE COURT: The facts could have been anything,  
11 but I think the benefits or advantage of the paragraph may  
12 be argued either way. However, I think it can be reasonably  
13 or should be reasonably construed to mean, "do you know any  
14 of the people shown in any of these pictures?" and the  
15 witness replied he did not and the Government claims that is  
16 a lie.

17 MR. GELLES: Thank you, your Honor, for listening.

18 THE COURT: Under the circumstances, the motions  
19 are denied, with the exception of the one on which I reserved  
20 which I am checking into now.

21 MR. GELLES: Judge, just a matter of housekeeping.  
22 Does your Honor wish us to sum up tonight?

23 THE COURT: Yes, definitely. This whole thing  
24 is behind time and it won't take very long to sum up, as far  
25 as I am concerned. Indeed, I hope to get to charge the jury. I am



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2     not sure I can do that.     If I can't I will do it the first  
3     thing tomorrow morning.

4             MR. GELLER: You will let us both sum up.

5             THE COURT: Do you have a witness?

6             MR. GELLER: I have one very brief witness.

7             (Audience present)

8             THE COURT: Ladies and gentlemen, the Government  
9     has now completed its case and the defendant is free to call  
10    any witness, if they wish to.

11            MR. GELLER: The defendant calls Miss Corradi.

12            A D D I E     J O R I A D I,     called as a witness on  
13            behalf of the defendant, having been first duly sworn,  
14            was examined and testified as follows:

15     DIRECT EXAMINATION

16     BY MR. GELLER:

17            Q     Miss Corradi, where do you work?

18            A     Mount Vernon methadone clinic.

19            Q     Is that a methadone clinic?

20            A     Yes.

21            Q     What is your occupation or profession?

22            A     Social worker.

23            Q     Are you a professional social worker?

24            A     I am.

25            Q     Did you go to college?

1 et/lf

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2 A I did.

3 Q What school did you go to?

4 A New York University.

5 Q How long have you been associated with this  
6 methadone program in Mount Vernon?

7 A Almost four years.

8 Q And do you know Michael Camporeale, the gentleman  
9 at my left?

10 A I do.

11 Q Did you know Michael Camporeale in 1972?

12 A I did.

13 Q And Mr. Camporeale involved in the methadone  
14 program?15 MR. SILVERMAN: Objection, your Honor. I would  
16 ask for a side bar at this time. I would like an offer of  
17 proof.

18 THE COURT: All right.

19 (At the side bar)

20 THE COURT: Do you expect her to be able to  
21 testify that his taking methadone could have affected his  
22 recollection in any way?

23 MR. GELLER: No, your Honor.

24 THE COURT: What do you expect her to testify to?

25 MR. GELLER: I expect her to testify that she works

1 gt/lf

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2 at this program, that Mr. Camporeale for a period of about  
3 three years was within her jurisdiction, that he received  
4 methadone each and every morning, that he took methadone on  
5 November 17, 1972, the very day he testified in the Grand  
6 Jury, and that he was so -- and the date he was discharged.

7 THE COURT: What would that prove?

8 MR. GELLER: I think, your Honor, that it would  
9 prove that he had taken a narcotic drug and he was under  
10 some sort of an influence.

11 THE COURT: But you don't expect her to be able  
12 to testify to that effect?

13 MR. GELLER: I don't think she is so qualified.

14 THE COURT: I will allow you to bring it out, but  
15 I will allow you to cross examine her --

16 MR. SILVERMAN: I don't understand what the  
17 relevance of her testimony is if it does not project the  
18 situation that it affects his testimony. Secondly, on the  
19 second day of his appearance he was asked specifically, "Did  
20 you take a narcotic drug, are you under the influence of  
21 drugs?" and he said no on that particular day.

22 THE COURT: That is not in this trial.

23 MR. SILVERMAN: It is on the second Grand Jury  
24 testimony day.

25 THE COURT: It is in evidence already?

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2 MR. SILVERMAN: Yes.

3 THE COURT: There will be a conflict apparently.

4 MR. GELLER: I am prepared to deal with that.

5 MR. SILVERMAN: Does she have the records of the  
6 clinic or testify --

7 THE COURT: You can't stop a witness from testi-  
8 fying. The question is whether it is relevant or not.

9 MR. SILVERMAN: If she is not testifying from her  
10 own memory, your Honor --

11 THE COURT: You are talking about the quality  
12 of her testimony.

13 MR. GELLER: It goes to weight.

14 THE COURT: She can say she inspected the records  
15 and the records indicated that.

16 MR. GELLER: She did.

17 MR. SILVERMAN: That is not the best evidence.  
18 She can't testify to looking at the records.

19 THE COURT: That's right.

20 MR. GELLER: The proof will show she was his  
21 social worker.

22 THE COURT: That she knew he took it that day,  
23 but she would have to testify that she does remember that he  
24 took it that day, which is a little hard to believe.

25 I will allow you to question her and see what

1 et/lf Corradi-Direct 245  
2 comes of it and I will strike the testimony if I feel that  
3 it is not appropriate.

4 MR. GELLER: Thank you.

5 (In open court)

6 DIRECT EXAMINATION CONTINUED

7 BY M. GELLER:

8 Q Miss Corradi, do you know Michael Camporeale?

9 A I do.

10 Q Was Michael ever registered at your methadone  
11 program?

12 A He was.

13 Q During what period of time was this?

14 A From May 24, 1971, through April 9, 1974.

15 Q Prior to coming here today, did you have an  
16 occasion to examine the records kept at your office?

17 A I did.

18 Q And did the record reflect --

19 MR. SILVERMAN: Objection, your Honor.

20 THE COURT: I sustain that objection.

21 If the witness can remember the events that you  
22 are interested in herself or if she has the records with  
23 her, that is something else, but she cannot tell us what  
24 the records say.

25 Q What was your relationship with Mr. Camporeale

1 et/lf Corradi-Direct

2 during this period of time?

3 A I was his counselor. He was my patient.

4 Q Did you have direct contact with him?

5 A Yes.

6 Q And during this period of time, was he taking  
7 methadone?

8 A Yes.

9 Q And what was the practice, at what times and when  
10 Mr. Camporeale took methadone?

11 MR. SILVERMAN: Objection as to what was the  
12 practice.

13 THE COURT: Yes. We are dealing with a particular  
14 day and let us see if the witness knows anything about that  
15 day.

16 Q On November 17th --

17 THE COURT: 1972.

18 MR. GELLER: Forgive me, your Honor.

19 Q On November 17, 1972, which was a weekday, did Mr.  
20 Camporeale take methadone that day?

21 MR. SILVERMAN: Objection, your Honor, as being  
22 leading.

23 THE COURT: I will allow it to the extent of  
24 saying it is a weekday. I don't consider that to be anything  
25 improper.

1 et/lf

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2 Can you --

3 I cannot so testify specifically. I would have  
4 to have our records with me and I was not asked to bring  
5 them.

6 MR. SILVERMAN: Objection. I ask that that be  
7 stricken, your Honor, the last statement.

8 THE COURT: The statement that she cannot say  
9 so certainly does not need to be stricken.

10 MR. SILVERMAN: The statement after that that she  
11 was not asked to bring them be stricken.

12 THE COURT: No, I won't strike that. She simply  
13 says she didn't get the records and she doesn't know.

14 Is that correct?

15 THE WITNESS: Correct.

16 Q Was he registered in the program on November 17,  
17 1972?

18 A He was.

19 Q And was he also registered in the program on  
20 November 20th of 1972?

21 A He was.

22 Q And November 21st of 1972?

23 A Yes.

24 Q What is the methadone program?

25 MR. SILVERMAN: I am going to object, your Honor.



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2 THE COURT: Sustained.

3 Q How many people were involved in the methadone  
4 program?

5 MR. SILVERMAN: Objection.

6 THE COURT: Mr. Geller, this is going far afield.  
7 You know what we are trying to establish here and I want to  
8 give you every opportunity that is appropriate, but that  
9 isn't.10 MR. GELLER: I have no further questions of  
11 this witness.

12 MR. SILVERMAN: I have no cross.

13 THE COURT: Thank you very much.

14 (Witness Excused)

15 THE COURT: Any further witnesses?

16 MR. GELLER: Your Honor, the defendant rests.  
17 I have no further witnesses.

18 THE COURT: All right.

19 MR. SILVERMAN: The Government rests, your Honor.

20 THE COURT: Very good.

21 I will assume, unless you wish the jury to  
22 leave the room, that the motions that you made earlier are  
23 repeated at this time and my rulings on them are the same.

24 MR. GELLER: Yes, your Honor.

25 THE COURT: I would like to check this one point

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1 MP

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2 UNITED STATES OF AMERICA

3 versus

73 Cr 56

4 MICHAEL COMPOREAL,

5 Defendant

6 New York, N. Y.

7 November 22, 1974 - 1:45 p.m.

8 (Proceedings continued.)

9 THE CLERK: For sentencing, United States of  
10 America versus Michael Comporeal.

11 Is the Government ready?

12 MR. SILVERMAN: Government is ready.

13 THE CLERK: Is the defendant ready?

14 MR. GELLER: The defendant is ready for sentence,  
15 your Honor.

16  
17 do have a motion pending. Before we get to sentence, let me  
18 rule on the motion. You can all be seated.

19 The defendant has moved to set aside the guilty ver-  
20 dict pursuant to Rule 29(c) of the Federal Rules of Criminal  
21 Procedure. The major proposition before the Court is that  
22 in reaching its verdict the jury had before it certain materi-  
23 al which was improper for it to consider, specifically, mater-  
24 ial contained in the grand jury testimony of the defendant  
25 when he appeared before a grand jury investigating activities

1 in the gambling field. The grand jury in question was the  
2 very grand jury testimony upon which the defendant was indict-  
3 ed for allegedly having perjured himself there and on which  
4 he was convicted by the jury.  
5

6 Prior to the deliberations of the jury but after  
7 the conclusion of the testimony, I believe, it was agreed by  
8 counsel that certain passages in the grand jury testimony  
9 should be deleted when that document was presented to the  
10 jury, since it referred to use by the defendant of heroin --  
11 and there may have been other references that I don't recall  
12 offhand, but there is no dispute between counsel as to what  
13 those references were.

14 It appears that counsel between them failed to make  
15 such deletions before they left the courtroom. Thereafter,  
16 the jury sent a note to the clerk of the court requesting  
17 that it be permitted to examine the grand jury testimony,  
18 which was an exhibit in the trial. The clerk telephoned the  
19 Court, and the Court authorized the transmission of the  
20 grand jury testimony to the jury, on the assumption that the  
21 deletions had been made, although they had not been made.

22 Thereafter, counsel returned to the courtroom, and  
23 first the defense counsel, I believe, and thereafter the  
24 Government counsel was made aware of the fact that these  
25 deletions had not been made.

1           The jury then returned with a verdict of guilty.

2           The United States opposes the motion on the grounds  
3           that, in the first place, the defendant had waived the error,  
4           if there was any, and, in the second place, the error, if it  
5           was an error, that was not waived was harmless.  
6

7           I agree with the United States in both -- as to  
8           both contentions. The Court was never advised before the  
9           termination of the proceedings in this case that the grand jury  
10          testimony had been delivered to the jury without the dele-  
11          tions which had been agreed to in advance, and I believe that  
12          that failure constituted a waiver, but, in any event, it is  
13          also true that -- I believe it was in the opening statement  
14          in the first instance, perhaps, of the defense counsel, in  
15          the first instance and perhaps thereafter, that it had al-  
16          ready come to the attention of the jury that the defendant  
17          had used or bought heroin in the past, and I do not believe  
18          that the submission of that material, assuming it was re-  
19          viewed by the jury in its deliberations, brought to their at-  
20          tention anything that was not a matter of record in any event.

21          Consequently, the motion to set aside the verdict  
22          of guilty pursuant to Rule 29(c) on that ground is denied,  
23          and I know of no other ground on which there would be a basis  
24          for setting aside the verdict.

25          I am now prepared to proceed with the sentencing.

MP

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Mr. Silverman -- Mr. Geller, just let me ask Mr. Silverman first, if you don't mind, whether there is anything that the Government wants to bring to my attention. He knows that I am quite familiar with not only this case but the background of the related Pellito case and so on, and I do have a full pre-sentence report.

MR. SILVERMAN: The Government has nothing further to add, your Honor.

THE COURT: All right. Mr. Geller, I will be glad to hear from you.

MR. GELLER: Just very briefly, your Honor, I would point out that in the course of the trial Mr. Comporeal did not testify. If the jury felt, and perhaps your Honor felt, that Mr. Comporeal perjured himself before a grand jury, he certainly did not duplicate that action during the course of the trial. The defense was basically based on legal questions, on the specificit of the grand jury questioning and whether perjury was committed as a matter of law. Those were the issues that he raised in a brief trial, and those were the issues that were resolved against him.

Your Honor, Mr. Comporeal is twenty-six. There is no question that he was involved in a gambling operation in Westchester and Rockland Counties. I would suggest that just from sitting in the courtroom and hearing the case, your

MP

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Honor probably knows that Mr. Comporeal was a runner; he was not a high-level operator. He was not a money man. He was not responsible for policy making within that gambling operation. He was a man who earned a hundred or two hundred dollars a week driving numbers around Westchester County and handing it to other people, a fairly low-level person, your Honor.

He was put in a position -- he was called before a grand jury, and apparently he was -- he perjured himself.

My understanding is that the overall investigation was not hampered by whatever Mr. Comporeal may have done in that grand jury, that indictments were obtained against the major figures, the targets of that investigation, and, indeed, I am led to believe that convictions were obtained. So if in fact Mr. Comporeal did perjure himself, I don't think the Government or the community suffered any -- any substantial loss as a result of his perjury. That is not to minimize the importance of testifying truthfully, but I think that is a factor that I should bring to the Court's attention.

I would hope that your Honor would consider all the factors about Mr. Comporeal, his drug addiction, his involvement in the Methodone program, the predicament that he found himself in, and I would hope that Court would be as lenient as you can be in this case.

\* \* \*

UNITED STATES COURT OF APPEALS: SECOND ~~XX~~ CIRCUIT

Index No.

USA,

Appellee,

- against -

MICHAEL CAMPOREALE,

Defendant-Appellant.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF

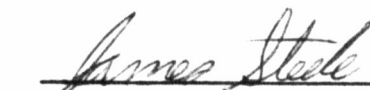
ss.:

I, James Steele, being duly sworn,  
depose and say that deponent is not a party to the action, is over 18 years of age and resides at  
250 West 146th, Street, New York, New York  
That on the 21<sup>st</sup> day of January 1975 at Foley Square, New Yor, New York

deponent served the annexed Appendix upon  
Paul J. Curran

the in this action by delivering a true copy thereof to said individual  
personally. Deponent knew the person so served to be the person mentioned and described in said  
papers as the Attorney(s) . herein,

Sworn to before me, this 21<sup>st</sup>  
day of January 1975

  
JAMES STEELE

ROBERT T. BRIN  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 31 - 0418950  
QUALIFIED IN NEW YORK COUNTY  
COMMISSION EXPIRES MARCH 30, 1975



